

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

NO. CR-05-2087-3-LRS
NO. CR-05-2087-5-LRS

J.

**ORDER DISMISSING INDICTMENTS
WITHOUT PREJUDICE**

ANTONIO AVILA VERDUZCO and
FRANCISCO PADILLA.

Defendants.

BEFORE THE COURT on March 24, 2006 is the Government's Motion to Expedite, Ct. Rec. 330, filed on March 23, 2006 in No. CR-05-2087-LRS-3, and Ct. Rec. 330, filed in CR-05-2087-LRS-5; the Government's Motion to Continue, Ct. Rec. 328, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 328, filed in CR-05-2087-LRS-5; the Government's Motion for Material Witness Warrant, Ct. Rec. 333, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 333, filed in CR-05-2087-LRS-5.

Aaron Dalan appeared on behalf of Defendant Padilla, who was also present at the hearing; and George Trejo appeared by telephone on behalf of Defendant Verduzco who was present in the custody of the United States Marshal. The Government, represented by Shawn Anderson, argued that a material witness, co-defendant Arenas, is not available for trial as his whereabouts are currently unknown. The Government requested a continuance

1 of approximately one month. Defendant Verduzco opposed the Government's
2 motion to continue, and requested that the indictments be dismissed with
3 prejudice as it is not likely this witness will be located in the near
4 future, if at all. Defendant Padilla joined in the request to have the
5 indictment dismissed with prejudice.

6 The Court has considered the written materials and arguments of
7 counsel and enters this order for the reasons discussed at the hearing.
8 Accordingly,

9 **IT IS HEREBY ORDERED:**

10 1. The Government's Motions to Expedite, **Ct. Rec. 330**, filed on
11 March 23, 2006 in No. CR-05-2087-LRS-3, and **Ct. Rec. 330**, filed in CR-05-
12 2087-LRS-5 are **GRANTED**.

13 2. The Government's Motions to Continue, **Ct. Rec. 328**, filed on
14 March 23, 2006 in CR-05-2087-LRS-3, and **Ct. Rec. 328**, filed in CR-05-
15 2087-LRS-5 are **DENIED**.

16 3. The Government's Motions for Material Witness Warrant, Ct. Rec.
17 333, filed on March 23, 2006 in CR-05-2087-LRS-3, and Ct. Rec. 333, filed
18 in CR-05-2087-LRS-5, are **DENIED AS MOOT**, based on the Government's
19 representation in open court that it withdraws the motions.

20 4. The indictments filed in CR-05-2087-LRS-3 against Defendant
21 Verduzco and Defendant Padilla in CR-05-2087-LRS-5 are hereby **DISMISSED**
22 **WITHOUT PREJUDICE**.

23 5. The trial date of March 27, 2006 is **STRICKEN**.

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IT IS SO ORDERED. The District Court Executive is directed to enter this order and to provide copies to all counsel, the U.S. Probation Office, the U.S. Marshal, and the Jury Administrator.

DATED this 24th day of March, 2006.

s/Lonny R. Suko

LONNY R. SUKO
United States District Judge